

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF PETITIONS

For
App No. 10/623,641

PETITION TO ACCESS A PENDING PATENT APPLICATION UNDER 37 CFR § 1.14

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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APR 29 2004

OFFICE OF PETITIONS

Dear Sir:

Chamilia, LLC of New York, New York ("Chamilia"), hereby petitions the Commissioner for access to one or more alleged pending US patent applications based on an assertion of special circumstances. The application number and title, as well as the name(s) of the inventor(s) are unknown. What is known is that Pandora Jewelry LLC of Columbia, Maryland, directly or through its possible parent Pandora Smykker of Denmark (collectively "Pandora") or possibly doing business with or under the name Looks, llc, also of Columbia, Maryland ("Looks"), has been making public assertion of patent rights in a modifiable or interlocking jewelry bracelet based on a patent application it may have filed with the US Patent Office.

The public assertions made by Pandora representatives lead Chamilia to believe that the patent application, if it exists, may have been filed in or about August, 2003. However, a brochure circulated by Pandora claiming "patent pending" for the jewelry includes a copyright notice date of 2000. (See Exhibit A attached hereto.) In addition, the January, 2004, publication of the trade journal Giftware News included a Pandora advertisement for the jewelry in question. The advertisement, attached hereto as Exhibit B, claims patent pending status and a 2000 copyright date. Therefore, the patent application may have been filed earlier than August, 2003. The Commissioner is hereby requested to determine whether such a patent application exists for the purpose of granting to Chamilia access to that application.

In addition to making public assertions of the existence of pending or issued patent rights in the modifiable jewelry, Pandora has made specific public claims that it would be filing suit against Chamilia for infringement of its alleged patent rights. Those public claims have caused, and continue to cause, harm to Chamilia's business in the form of lost sales. It is Chamilia's

position that Pandora presently has no such rights but that it may be granted such rights upon issuance of a pending patent application. Pandora's actions in making public representations regarding assertion of apparently non-existent patent rights are interfering with Chamilia's business and its customers. In order for Chamilia to determine whether it may violate a future claimed patent right of Pandora, it is essential that Chamilia be granted access to any relevant patent application in the name of Pandora, Looks, or one or more employees of Pandora or Looks.

It is Chamilia's understanding that Mr. Michael Lund is the president of Pandora. Mr. Lund may also be a named inventor in the patent application for which access is sought. The product that may be the subject of the patent application is a modifiable jewelry bracelet. Mr. Lund stated to a Chamilia employee, Lisa Whirlow, that Pandora had a worldwide patent on the modifiable bracelet. (See paragraph 6 of the Declaration of Lisa Whirlow accompanying this petition.) Mr. Lund did not provide to Ms. Whirlow any information regarding a patent or patent application number. Mr. Lund apparently did not identify the name(s) of the inventor(s) of the patented bracelet. Subsequent searches for any patent rights assigned to Pandora, or in the name of Mr. Lund, for any sort of modifiable bracelet of the type sold by Pandora failed to uncover any issued or pending patents. (See paragraph 7 of the Declaration of Lisa Whirlow.) If Pandora, Looks, or Mr. Lund have any patent rights in the modifiable bracelet, they are either in the name of another unknown party, or they are pending in a presently confidential patent application. Broader searches conducted by Chamilia's below-identified representative for any patents or pending applications for modifiable bracelets of the type offered by Pandora, failed to uncover any reasonably related patents or applications. Therefore, if Pandora has any patent rights in the modifiable bracelet, they are apparently only pending rights in one or more unpublished patent applications. This petition seeks access to such unpublished and presently unidentifiable application(s), if it or they exist at all, for the purpose of determining the scope of rights that may arise in the future.

Chamilia is particularly concerned that Pandora has been making public representations regarding its alleged patent rights in a manner that interferes with Chamilia's business and its customers and potential customers. Specifically, on at least three separate occasions, Chamilia representatives heard assertions made by three different Pandora representatives regarding alleged Pandora patent rights that would have a direct effect on Chamilia's ability to sell its own

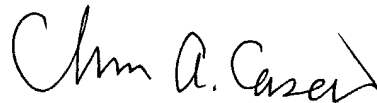
modifiable bracelets. First, on August 27, 2003, at the San Francisco International Gift Fair, Ms. Whirlow was confronted by Mr. Lund and was informed by Mr. Lund that he intended to use his company's patent to "shut down" Chamilia and any future competitor. (See paragraph 6 of the Declaration of Lisa Whirlow.) Second, on February 8, 2004, at the Winter International Gift Show, Ms. Whirlow was confronted by Mr. Steve Glueck, a Pandora sales representative, and was informed by Mr. Glueck that Pandora had patent rights violated by Chamilia's modifiable bracelet. (See paragraph 9 of the Declaration of Lisa Whirlow.) Third, on March 14, 2004, Ms. Kathy Riley, a Chamilia sales representative, while visiting a display booth at the Chicago Gift Show, was told by Mr. Jody Henderson, a Pandora sales representative, that Pandora was suing Chamilia because it had a patent. Mr. Henderson's statements were made in front of other jewelry distributors, and Chamilia's customers and potential customers. (See paragraph 5 of the Declaration of Kathy Riley, accompanying this petition.)

In addition to the three direct threats of patent violation made by Pandora against Chamilia described above, Pandora has made statements to Chamilia's customers and potential customers advising them not to purchase products from Chamilia because of Pandora's asserted patent rights. Specifically, during the Winter International Gift Show, Ms. Whirlow met and spoke with three Chamilia customers or potential customers. Each informed Ms. Whirlow that they had been told by Mr. Glueck that they should not purchase product from Chamilia because Pandora would close down Chamilia based on Pandora's patent rights. Those customers informed Ms. Whirlow that they would not purchase products from Chamilia because of the patent rights assertion made by Mr. Glueck. Ms. Whirlow observed other potential customers who, on her belief, declined to purchase products from Chamilia because of the Pandora patent assertion threat. (See paragraph 10 of the Declaration of Lisa Whirlow.) Additionally, Ms. Riley has had to allay the fears of other customers and potential customers who have indicated a reluctance to purchase products from Chamilia as a result of the Pandora patent assertion. Moreover, Ms. Riley has had to respond to statements made by customers that they have been advised by Pandora that Chamilia was having financial problems and would be unable to sell its modifiable bracelets in the United States as a result of Pandora's patent rights. (See paragraph 6 of the Declaration of Kathy Riley.)

Pandora's assertion of alleged patent rights interfere with Chamilia's business and Chamilia's customers. Pandora has not provided Chamilia with notice sufficient for Chamilia to

identify the patent rights held and asserted by Pandora. If such rights are pending in a patent application filed by Pandora less than 18 months ago, or otherwise not subject to publication, Chamilia should be permitted to review the rights claimed in order to make informed business decisions and minimize further harm to its business. For these reasons and pursuant to Section 103 of the Manual of Patent Examining Procedure, the Commissioner is hereby petitioned to allow Chamilia, by and through its below-named representative, access to all pending or abandoned patent applications naming Pandora and/or Looks as an assignee, naming Michael Lund as an inventor, or naming another Pandora or Looks representative or employee as an inventor. It is respectfully requested that this petition be reviewed and acted upon immediately in order to minimize further harm to Chamilia's business.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris A. Caseiro". The signature is fluid and cursive, with the first name "Chris" being more prominent.

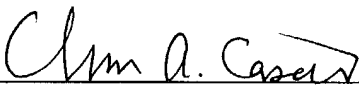
Chris A. Caseiro, Reg. No. 34,304
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Portland, ME 04112-0586
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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2004, I caused a true and correct copy of the foregoing PETITION TO ACCESS A PENDING PATENT APPLICATION UNDER 37 CFR § 1.14 to be delivered to the below-named individual and company by first class mail to the following address:

Mr. Michael Lund
Pandora Jewelry, LLC
8726 Carriage Hills Drive
Columbia, Maryland 21046

Date: April 22, 2004


Chris A. Caseiro
Attorneys for Chamilia, LLC

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Certificate of Mailing

I hereby certify that this correspondence is being mailed to: Mail Stop Petition,
Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on
April 22, 2004, using the Express Mail service of the US Postal
Service, label no. E46808 X616US. It is hereby requested that this
correspondence be assigned a filing date of April 22, 2004.

Chris A. Caseiro
Chris A. Caseiro

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